

CARLSMITH BALL LLP

DAVID LEDGER
ELYZE McDONALD
Bank of Hawaii Bldg., Suite 401
134 West Soledad Avenue, P.O. Box BF
Hagåtña, Guam 96932-5027
Tel No. 671.472.6813

Attorneys for Defendant
Japan Airlines International Co., Ltd.

FILED
DISTRICT COURT OF GUAM
OCT 13 2005
MARY L.M. MORAN
CLERK OF COURT

IN THE DISTRICT COURT OF GUAM

ROBERTO J. DEL ROSARIO and
MELANIE DEL ROSARIO,

Plaintiffs,

vs.

JAPAN AIRLINES INTERNATIONAL
CO., LTD.,

Defendant.

CIVIL CASE NO. CIV04-00028

**DEFENDANT JAPAN AIRLINES
INTERNATIONAL CO., LTD.'S
REQUEST FOR A STATUS
CONFERENCE; EXHIBITS A-D;
DECLARATION OF SERVICE**

1. Introduction

Defendant Japan Airlines International, Inc. respectfully requests the earliest possible Status Conference during which it will request the Court to consider and resolve the currently existing trial setting conflict between this case and Civil Case No. CV03-00030, Julie Emmanuel v. Seventh Day Adventist Clinic. Japan Airlines concedes that CV03-00030, being the older of the two cases is entitled to priority on the trial calendar.

2. Background

On July 14, 2005, the court vacated the trial date in CV03-00030. See Exhibit A. Subsequently, both counsel in CV03-00030 appeared for a Status Conference to consider new

trial dates. During the Conference, counsel for Seventh Day Adventist Clinic explained that a key witness for the trial would be traveling to Guam from Kabul, Afghanistan, and that counsel would need time to enquire of that witness as to when in 2005 he could travel to Guam for the trial. The Court provided three possible time-frames from which to choose a trial date, September, November or December 2005. Subsequently, counsel for Seventh Day Adventist Clinic advised the Court that December was the preferred date. See Exhibit B. Counsel for Plaintiff likewise filed a pleading agreeing to conduct the trial in December. See Exhibit C. The trial is presently set to commence on December 6, 2005. See Exhibit D. It is expected that this trial will last five or six days, then to conclude on December 12 or 13, 2005. This trial schedule should remain unchanged.

The conflict in trial dates is presented by *this present action* being set for trial on December 13, 2005. In light of the fact that the same defense counsel will be lead trial counsel in both cases, and in light of the fact that the Court has limited resources with which to try civil cases, primarily due to having to rely on visiting judges, it is not realistic to schedule this trial to commence on the day after, or the same day, the trial of CV03-00030 concludes. In the circumstances, Japan Airlines respectfully requests a Status Conference during which new potential trial dates for this action may be considered.

This is not to say that both counsel have not been diligent in preparing this case for trial. Rather, much work and case preparation have been completed. For example, depositions have been taken in Japan, and an IME conducted in Honolulu, Hawaii. Both parties have served and answered written discovery and produced many documents. A video tape deposition to preserve trial testimony of Honolulu physician John Henrickson remains to be completed.

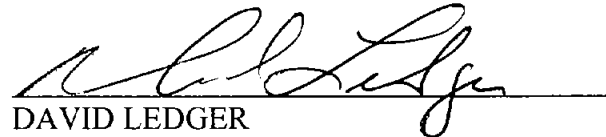
3. Conclusion

In light of the above-described circumstances, Japan Airlines respectfully requests the Court to convene a Status Conference on the earliest possible date to consider new dates for the following:

- Preliminary pre-trial conference, currently set for November 22, 2005
- Parties' pre-trial materials, presently due November 29, 2005
- Proposed pre-trial order, presently due November 29, 2005
- Final pre-trial conference, presently set for December 6, 2005
- Trial brief, presently due November 13, 2005 (by Local Rule)
- Trial, presently set for December 13, 2005.

DATED: Hagåtña, Guam, October 13, 2005.

CARLSMITH BALL LLP



DAVID LEDGER

ELYZE McDONALD

Attorneys for Defendant

Japan Airlines International Co., Ltd.

EXHIBIT

"A"

FILED

DISTRICT COURT OF GUAM

JUL 14 2005

MARY L.M. MORAN
CLERK OF COURT

DISTRICT COURT OF GUAM
TERRITORY OF GUAM

JULIA BORJA EMMANUEL,

Plaintiff,

vs.

GUAM SEVENTH-DAY ADVENTIST
CLINIC, GUAM-MICRONESIA
MISSION, MICHAEL MAHONEY and
DOES 1 through 10,

Defendants.

Civil Case No. 03-00030

ORDER

Due to the scheduling needs of the Court, the August 16, 2005 trial date and all related pretrial deadlines are hereby vacated. The parties shall appear for a status conference on Wednesday, August 3, 2005 at 9:30 a.m. to discuss the earliest date they can proceed to trial.

SO ORDERED this 14th day of July 2005.



JOAQUIN V. E. MANIBUSAN, JR.
U.S. Magistrate Judge

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Date:

07-15-05

File:

Filed 10/13/2005

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EXHIBIT

"B"

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DAVID LEDGER
ELYZE MCDONALD
Bank of Hawaii Bldg., Suite 401
134 West Soledad Avenue, P.O. Box BF
Hagåtña, Guam 96932-5027
Tel No. 671.472.6813

Attorneys for Defendants
Guam Seventh-Day Adventist Clinic,
Guam-Micronesia Mission, and Michael Mahoney

FILED
DISTRICT COURT OF GUAM

AUG 12 2005

MARY L.M. MORAN
CLERK OF COURT

IN THE DISTRICT COURT OF GUAM

JULIA BORJA EMMANUEL,

Plaintiff,

vs.

GUAM SEVENTH-DAY ADVENTIST
CLINIC, GUAM-MICRONESIA MISSION,
MICHAEL MAHONEY, and DOES 1 through
10,

Defendants.

CIVIL CASE NO. CIV03-00030

**SELECTION OF TRIAL DATE;
DECLARATION OF SERVICE**

Lujan, Unpingco, Aguigul & Perez LLP	
Date:	08/12/05
Time:	4:13
Rec'd:	PLG

A Status Conference to determine a trial date for this action was held on August 3, 2005.

The Court informed the Parties of dates in September, November and December 2005 during which the Court could set this action for trial before a visiting judge.

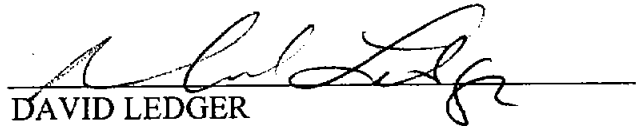
Counsel for Defendants informed the Court that Counsel would have to contact Michael Mahoney, a key witness and former defendant in the action, to confirm when Mr. Mahoney could attend the trial, in that Mr. Mahoney had recently taken employment overseas.

After consulting with the current Administrator of the Seventh Day Adventist Clinic, Defendants are able to hereby inform the Court that Mr. Mahoney will be available for trial in

December 2005. Accordingly, Defendants select the December 5-16, 2005 time frame to conduct Trial in this non-jury action, and respectfully request the Court to set the case for trial at that time.

DATED: Hagåtña, Guam, August 12, 2005.

CARLSMITH BALL LLP


DAVID LEDGER
ELYZE MCDONALD
Attorneys for Defendants
Guam Seventh-Day Adventist Clinic,
Guam-Micronesia Mission, and
Michael Mahoney

DECLARATION OF SERVICE

I, David Ledger, hereby declare under penalty of perjury of the laws of the United States, that on August 12, 2005, I will cause to be served, via hand delivery, a true and correct copy of DEFENDANTS SELECTION OF TRIAL DATES upon Plaintiff's Counsel of record as follows:

Peter J. Sablan, Esq.
Lujan, Unpingco, Aguigui & Perez, LLP
Suite 301, Pacific News Building
238 Archbishop Flores Street
Hagåtña, Guam 96910

Executed this 12th day of August 2005 at Hagåtña, Guam.



DAVID LEDGER

EXHIBIT

"C"

1 **LUJAN, UNPINGCO, AGUIGUI & PEREZ LLP**
2 Attorneys at Law
3 Pacific News Building, Suite 300
4 238 Archbishop Flores Street
Hagåtña, Guam 96910
Telephone (671) 477-8064/5
Facsimile (671) 477-5297

5 *Attorneys for Plaintiff Julia Borja Emmanuel*

FILED

DISTRICT COURT OF GUAM

AUG 16 2005

MARY L.M. MORAN
CLERK OF COURT

7 **IN THE UNITED STATES DISTRICT COURT**

8 **DISTRICT OF GUAM**

9 JULIA BORJA EMMANUEL,

10 Plaintiff,

11 -vs-

12 GUAM SEVENTH-DAY ADVENTIST
13 CLINIC, GUAM-MICRONESIA
MISSION, MICHAEL MAHONEY, and
DOES 1 through 10,

14 Defendants.

CIVIL CASE NO. 03-00030

SELECTION OF TRIAL DATE

16 Counsel for Plaintiff will be available for trial during December 5-16, 2005 and
17 respectfully requests the Court to set this case for trial at that time.

18 Respectfully submitted this 16th day of August, 2005.

19
20 **LUJAN, UNPINGCO, AGUIGUI & PEREZ LLP**

21 By: 

22 **PETER J. SABLAN, ESQ.**

23 *Attorneys for Plaintiff Julie Borja Emmanuel*

24
25
26
27
28 **EXHIBIT C**

EXHIBIT

"D"

FILED

DISTRICT COURT OF GUAM

AUG 18 2005

MARY L.M. MORAN

CLERK OF COURT

DISTRICT COURT OF GUAM

TERRITORY OF GUAM

JULIA BORJA EMMANUEL,

Plaintiff,

vs.

GUAM SEVENTH-DAY ADVENTIST
CLINIC, GUAM-MICRONESIA
MISSION, MICHAEL MAHONEY and
DOES 1 through 10,

Defendants.

Civil Case No. 03-00030

ORDER

Setting Trial Date and Schedule


Due to the scheduling needs of the Court, on July 14, 2005, the Court vacated the August 16, 2005 trial date and all related pretrial deadlines. A status hearing was held on August 3, 2005, and after discussing potential scheduling conflicts, the Court instructed the parties it advise it of their earliest available dates to try the matter herein. The parties have since notified the Court that they would be available for trial between December 5 and 16, 2005. Accordingly, the trial herein shall be governed by the following schedule:

- Pursuant to Local Rule LR 16.7(b), the parties shall each file a trial brief by **Monday, November 7, 2005;** ✓
- A preliminary pretrial conference shall be held on **Tuesday, November 15, 2005 at 10:30 a.m.;** ✓
- The parties shall each file an Exhibit List in conformance with Rule 16.7(d) of the Local Rules of Practice for the District Court of Guam, Discovery Material Designations, and a Witness List (including potential impeachment and rebuttal witnesses) under separate cover no later than **Tuesday, November 22, 2005.** The Witness List shall also contain a brief description (two to three paragraphs) of each witness's expected testimony; ✓

CARL SMITH BALL
8-19-05

- Three complete sets of marked and tabbed exhibits in three-ring binders shall be lodged with the Court no later than **Tuesday, November 22, 2005**. A copy of the Exhibit List shall be included in each three-ring binder. The parties shall meet and confer sufficiently in advance of trial and formulate a set of joint exhibits, if possible, to eliminate duplicate exhibits. Those exhibits upon which agreement cannot be reached shall be submitted separately by each respective party. ✓
- If deposition transcripts will be used at trial, the original of said transcripts shall be lodged with the Court no later than **Tuesday, November 22, 2005**, and shall be in conformance with Rule 32.1 of the Local Rules of Practice for the District Court of Guam. ✓
- A final pretrial conference shall be held on **Tuesday, November 29, 2005 at 10:30 a.m.** ✓
- The jury trial shall commence on **Tuesday, December 6, 2005¹ at 9:00 a.m.** before Judge D. Lowell Jensen.² ✓

SO ORDERED this 18th day of August 2005.


JOAQUIN V. E. MANIBUSAN, JR.
U.S. Magistrate Judge

¹ This trial date is within the 18-month time frame contemplated in the Local Rules. Additionally, a December trial date will permit the parties to attempt to settle this action during the Board's September 2005 meeting.

² The Honorable D. Lowell Jensen, United States Senior District Judge for the Northern District of California, sitting by designation.

DECLARATION OF SERVICE

I, David Ledger, hereby declare under penalty of perjury of the laws of the United States, that on the 13th day of October 2005, I will cause to be served, via hand delivery, a true and correct copy of DEFENDANT JAPAN AIRLINES INTERNATIONAL CO., LTD.'S REQUEST FOR A STATUS CONFERENCE; EXHIBITS A-D upon Plaintiffs Counsel of record as follows:

William L. Gavras, Esq.
Law Offices of Gorman & Gavras, P.C.
2nd Floor, J&R Building
208 Route 4
Hagåtña, Guam 96910

Executed this 13th day of October 2005 at Hagåtña, Guam.



DAVID LEDGER